

other sales, made prior to January 13, 1993, in accordance with DoD 7220.9-M,² "DoD Accounting Manual."

(5) Deposit collections to accounts as prescribed by the Comptroller, DoD.

(6) Request guidance from the Under Secretary of Defense for Policy, within 90 days, if an issue concerning a recoupment charge cannot be resolved.

§ 165.6 Procedures.

(a) The nonrecurring cost recoupment charge to be reimbursed shall be a pro rata recovery of nonrecurring cost for the applicable major defense equipment. Recovery of nonrecurring cost recoupment charges shall cease upon the recovery of total DoD costs. Such charges shall be based on a cost pool as defined in § 165.3. For a system that includes more than one component, a "building block" approach (i.e., the sum of nonrecurring cost recoupment charges for individual components) shall be used to determine the nonrecurring cost recoupment charge for the sale of the entire system.

(b) A nonrecurring cost recoupment charge shall not apply when a waiver has been approved by the Under Secretary of Defense for Policy in accordance with § 165.7 or when sales are financed with U.S. Government funds made available on a nonrepayable basis. Approved revised nonrecurring cost recoupment charges shall not be applied retroactively to accepted foreign military sales agreements.

(c) When major defense equipment are sold at a reduced price due to age or condition, the nonrecurring cost recoupment charge shall be reduced by the same percentage reduction.

(d) The full amount of "special" research, development, test, and evaluation and nonrecurring production costs incurred for the benefit of particular customers shall be paid by those customers. However, when a subsequent purchaser requests the same specialized features that resulted from the added "special" research, development,

test, and evaluation and nonrecurring production costs, a pro rata share of those costs may be paid by the subsequent purchaser and transferred to the original customer if those special nonrecurring costs exceed 50 million dollars. The pro rata share may be a unit charge determined by the DoD Component as a result of distribution of the total costs divided by the total production. Such reimbursements shall not be collected after 10 years have elapsed since acceptance of DD Form 1513, "U.S. DoD Offer and Acceptance," by the original customer, unless otherwise authorized by the Under Secretary of Defense for Policy. The U.S. Government shall not be charged any nonrecurring costs recoupment charge if it adopts the features for its own use or provides equipment with such features under a U.S. Grant Aid or similar program.

(e) For coproduction, codevelopment and cooperative development, or cooperative production DoD agreements, the policy set forth in this part shall determine the allocation basis for recouping from the third party purchasers the investment costs of the participants. Such DoD agreements shall provide for the application of the policies in this part to sales to third parties by any of the parties to the agreement and for the distribution of recoupments among the parties to the agreement.

§ 165.7 Waivers (including reductions).

(a) The "Arms Export Control Act," Public Law No. 90-629, as amended, requires the recoupment of a proportionate amount of nonrecurring cost of major defense equipment from foreign military sales customers but authorizes consideration of reductions or waivers for particular sales which, if made, significantly advance U.S. Government interests and the furtherance of mutual defense treaties between the United States and certain countries.

(b) Requests for waivers should originate with the foreign government and shall provide information on the extent of standardization to be derived as a result of the waiver.

ATTN: DISAM-DRP, Wright-Patterson Air Force Base, Ohio 45433.

²Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.